

FILED
United States District Court
District of Massachusetts
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U.S. DISTRICT COURT
DISTRICT OF MASS

No.

Calvin Tate
Plaintiff,

vs.

Bernard Brady, Lisa Mitchell,
Carol Lawson, Donna Motta,
and Kathleen Dennehy.
Defendants.

Civil Action Complaint

Introduction

This is a Civil Rights Violation Complaint, filed by Calvin Tate, Pro, se., where he alleges the Defendants "intentionally", "knowingly" and "maliciously" conspired to confine him in 23 hour segregation, reclassify him to higher security, and impose institutional restriction of his privileges in violation of due process under the 14th Amendment. And subject him to cruel and unjust treatment under the Eighth (8th) Amendment of the Constitution.

Plaintiff claims the Defendants subject him to punitive confinement, actions and inaction, upon a "expired" sentence which he was no longer serving.

The Plaintiff seeks punitive and compensatory damages from the Defendants in this "individual" and "personal" capacities.

Jurisdiction:

This Court has Jurisdiction pursuant to 42 U.S.C. 1983 AND Related Statutes.

Parties:

1.) The Plaintiff at all Times here-to was a Inmate confined at Old Colony Correctional Center at Bridgewater MASS. (hereafter-called OCCC.)

2. The Defendant BERNARD BRADY, is The Superintendent at OCCC.

3. The Defendant Lisa Mitchell, is The Deputy Superintendent of Classification at OCCC

4. The Defendant Donna Motta, is The Unit Counselor for Inmate in Segregation at OCCC.

5. The Defendant Carol Lawson, is The Director of Classification at OCCC

6. The Defendant Kathleen Denny, is The Commissioner of The Department of Correction for The Commonwealth of Massachusetts.

Statement of Facts

On February 5, 2004, while serving a Sentence under Court Mitimus No. # W-39279, Plaintiff was placed in the Segregation Unit as a Result of Receiving a Disciplinary Report. Plaintiff subsequently Received Several Additional Disciplinary Reports while confined pursuant to 103 CMR 430.00, in which Disciplinary Sanctions of Loss of Visits, Phone, Canteen and Isolation was

Imposed."

ON April 27, 2004, The Defendant DONNA Motta at the Direction of Defendant CAROL LAWSON, Recommended The Plaintiff be Re-Classified TO Shirely Maximum Security SBCC. AS A RESULT of Accumulation of D-Reports Received UNDER Sentence W-39279.

ON May 5, 2004, Defendant Lisa Mitchell "Signed-off" ON The Recommendation IN ACCORDANCE with The Regulatory Time Period, illegally sending her Decision TO Central Classification Division FOR Their Final Decision.

ON May 19, 2004 While still IN Segregation, the Sentence UNDER "W-39279" EXPIRED. Plaintiff WAS SERVED a Parole Warrant TO be executed ON a Separate Matter.

ON OR about May 20, 2004 Plaintiff WAS Re-Booked ON A New Sentence # C-47772, (CONCORD Sentence) AND Given a New Identification CARD, verifying The Change IN Status AND Mitimus of Confinement.

Plaintiff submitted written Notice AND Notification TO "all" The Defendants THAT he WAS TO be Transferred FROM Segregation TO MCI CONCORD, AND THAT all Disciplinary Sanctions UNDER his EXPIRED Sentence 9- along with Reclassification Process WAS VOID UNDER his New Sentence AND New Mitimus C-47772.

The Defendants CAROL LAWSON, Lisa Mitchell AND DONNA Motta, informed The Plaintiff, he would NOT be Transferred, he would Remain IN Segregation, AND all Sanctions UNDER "W-39279", would be CARRIED OVER TO his New Sentence # C-47772 which WAS implemented.

Plaintiff Remained in Segregation with Disciplinary Sanctions Imposed upon Mittimus Number C-47772.

Plaintiff had also submitted Written Complaint To Defendants Brady and Denny who took no action. Plaintiff also contacted the Attorney General's office of same.

From May 19, 2004, upto June 28, 2004, The Disciplinary Sanctions under W-39279 were enforced on Mittimus C-47772. At which time they were removed from the Plaintiff's Record and Defendants "Inmate Sanction List".² Plaintiff was informed by staff all sanctions are removed, because Plaintiff did not receive any D-Reports under his Present Sentence C-47772.

Plaintiff states although he has been Re-Classified Since April 27, 2004, Central Division has not Signed off upto May 2004. Plaintiff claims he had been in Segregation and Classified well before several other inmates, However several inmates have been transferred and Signed off before him.

Plaintiff alleges "Discrimination" and "Retaliation" by Prison official not to Process his status, Using Segregation and Prolong Confinement as a Unlawful tool For Punishment, Under the Pretext of Classification Process.

Plaintiff states as of May 19, 2004 he had not

2. The Defendants Inmate Sanction list supervised visits upto 7/13/04, Canteen 7/13/04, AND lost of Phone 30 days; loss of Canteen 180 days (Report # 33983 # 3445, 32167

received any D-Report or Institutional Violation under his lawful Mittimus C-47772, which would have lawfully required he be confined in segregation, nor had he been reclassified under C-47772.

Plaintiff claims any Reclassification to Higher Security from Old Colony Level 5 facility while serving C-47772, that was based on his old sentence W-39279 was illegal and unlawful.

LEGAL CLAIMS

I. Unlawful Segregation Under Mittimus Number C-4777 - Due Process AND Equal Protection - Cruel Treatment

Plaintiff's initial Segregation was clearly based upon Reports received while serving Sentence under Mittimus W39279, as was the Classification Recommendations. Unlike an Aggregated Prison Sentence, or from and after that could be linked together, Plaintiff was Recommitted upon a Parole Warrant Execution which has a Separate Identity. This fact even realized by the Defendants at OCC which required the Plaintiff be "Re-Booked", receive a "New Identification Card", and a "New Mittimus" of Commitment Number C-47772.

On May 19, 2004, the Defendants were obligated to transfer the Plaintiff to the lawful execution of said Parole Warrant Sentence and Facility, or Release Plaintiff upon a Reclassification pursuant to C-47772. Confining Plaintiff in 23 Hour Segregation without any violations under his lawful Mittimus. Constitutes Unlawful and illegal Segregation without Due Process of law and Cruel and Unusual

a. Substantive Due Process Violation

It is undisputed that the Defendants unlawfully without Due Process, subjected the Plaintiff and his family to Illegal Sanctions by Applying Sanctions that were imposed upon an expired sentence. The Record reflects from May 19, 2004 up to the point the sanctions were removed June 28, 2004, the Plaintiff has received no D-Reports or Institutional Rule Violations while committed under Mitimus No. C-47772.

Due Process of Law requires the Plaintiff's Privileges or Rights, may not be "Arbitrarily" or "Capriciously" infringed upon without Due Process of Law. The fact the Defendants had ceased depriving Plaintiff visits, canteen, phone lost some 40 days later. Does not take away from the injury imposed or irreparable harm emotionally and mentally. The Defendants action to stop the illegal deprivation, only acts as a Admission of Guilt and Violation of Plaintiff's Rights.

II. Unlawful Reclassification To Higher Security OR Reclassification Under W39279 After May 19, 2004 IS Violative of Due Process of Law

As stated above the initial Reclassification Process was upon W-39279, a sentence and Mitimus that had expired on May 19, 2004. There is a deference in Plaintiff sentence structure and status under Mitimus # C-47772. Under Plaintiff's present sentence he had only 10 months to serve at the time of this filing classification under his lawful Mitimus would not

provided a Recommendation To a Level 6 High Maximum Security Facility. Not only did the Plaintiff have NO D-Reports under C-47772. But was ~~eligible~~ eligible for lower Security 4 or Pre-Release with The Time Remaining.

The Defendants Lawson, Mitchell, Brady and Motta "Conspired" To Deprive plaintiff Classification under his lawful Mitimus after May 19, 2004. Because they had already "Conspired" To Transfer The Plaintiff To Shirley maximum, A Process which Relives the "Father GAGON" Classification based on individual Desires of a individual, rather than Sentence Structure.

Relief Requested

Plaintiff seeks the following Damages from the Defendants:

1. Punitive Damages in the Amount of \$ 10,000.00 Dollars from Defendants Lawson, Mitchell, Denny and Brady for holding the Plaintiff in Segregation after May 19, 2004 Unlawfully under Mitimus C-47772, And each of them.

2. Punitive Damages and Compensatory Damages from Defendants Lawson, Mitchell, Denny and Brady in the Amount of \$1,000.00 each Day Plaintiff's Privileges were Denied or Restricted from May 19, 2004 up to June 28, 2004 under Mitimus C-47772, For Sanction imposed on expired Sentence W-39279. And each of them.

3. Punitive and Compensatory Damage in the Amount of \$150,000.00 from all Defendants collectively, or as this Court sees fit. For Classifying and Transferring Plaintiff to Any Facility based on Mitimus #W39279 infractions where he was serving Mitimus #C-47772 and transferred without a